

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**EDWARD L. JACKSON, SR.,**

**Petitioner,**

**-v-**

**Case No. 05-C-0663**

**WILLIAM POLLARD,**

**Respondent.**

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**DECISION AND ORDER**

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On June 21, 2005, the petitioner, Edward L. Jackson, Sr. (“Jackson”) filed a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. The Court conducted an initial review, as it is required to do under Rule 4 of the Rules Governing Section 2254 Cases, and ordered the respondent, William Pollard (“Pollard”), to “serve and file an answer.” *See Jackson v. Pollard*, 05-C-0663 (Oct. 12, 2005). On November 10, 2005, Pollard filed an answer and a motion to dismiss the petition as untimely filed.

Pollard’s claim that Jackson’s petition is barred by the statute of limitations should have been filed as a part of Pollard’s answer, not as a separate motion to dismiss. *See* Rule 5(b) of the Rules Governing Section 2254 Cases (“The answer

must . . . state whether any claim in the petition is barred by . . . a statute of limitations.”); *see also Chavez v. Morgan*, 932 F. Supp. 1152, 1152-53 (E.D. Wis. 1996). Because Pollard’s motion to dismiss, though, was filed simultaneously with his answer, the Court will convert Pollard’s “motion to dismiss,” and his brief in support of his “motion to dismiss,” to be part of the answer.

Pursuant to Rule 5(e) of the Rules Governing 2254 Cases, the Court will permit Jackson to file a reply to Pollard’s answer by December 16, 2005.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT**

The petitioner, Edward L. Jackson, Sr., is directed to serve and file a reply to the respondent’s answer no later than **December 16, 2005**.

Dated at Milwaukee, Wisconsin, this 15th day of November, 2005.

**SO ORDERED,**

**s/ Rudolph T. Randa**  
**HON. RUDOLPH T. RANDA**  
**Chief Judge**